

REAL ESTATE COMMISSION
PROFESSIONAL & VOCATIONAL LICENSING DIVISION
DEPARTMENT OF REGULATORY AGENCIES

STATE OF HAWAII
1010 RICHARDS STREET
P. O. BOX 3469
HONOLULU, HAWAII 96801

**PRELIMINARY
HORIZONTAL PROPERTY REGIMES (CONDOMINIUM)
PUBLIC REPORT**

ON
KONA SUNSET VILLAS
Seaview Circle, Holualoa
North Kona, Hawaii

Registration No. 1159

IMPORTANT — Read This Report Before Buying

This Report Is Not an Approval or Disapproval of This Condominium Project

It reflects information obtained by the Real Estate Commission in its investigation of the project. This report, based on a principle of disclosure, is issued by the Commission for the purpose of preventing fraud, misrepresentation or deceit.

The developer shall not enter into a binding contract or agreement for the sale of any unit in a Condominium Project but may only take reservations therefore after

- (1) A copy of this Report has been given to the prospective purchaser,
- (2) The latter has been given an opportunity to read same, and,
- (3) His receipt taken therefor.

Issued: October 2, 1979

Expires: November 2, 1980

SPECIAL ATTENTION

A comprehensive reading of this report is urged in order that personal requirements and expectations to be derived from the property can be ascertained. The attention of the purchaser or prospective purchaser is particularly directed to the following:

THIS REPORT REFLECTS INFORMATION DISCLOSED IN THE REQUIRED NOTICE OF INTENTION SUBMITTED AUGUST 3, 1979, AND INFORMATION FILED AS OF AUGUST 31, 1979. THE DEVELOPER, BY NOTIFYING THE COMMISSION OF ITS INTENTION TO SELL, IS COMPLYING WITH THE REQUIREMENTS OF THE HORIZONTAL PROPERTY ACT, CHAPTER 514A, HAWAII REVISED STATUTES, AS AMENDED.

1. KONA SUNSET VILLAS is a leasehold (with option to purchase the fee simple interest), residential, condominium project consisting of one rectangular three-story building containing 21 residential apartments plus associated improvements, all in accordance with plans filed with the Real Estate Commission as part of this registration. The Developer intends to sell each of the twenty-one (21) apartments together with an undivided interest in the common elements of the project, including the land, to each purchaser.
2. The basic documents (Declaration of Horizontal Property Regime, By-Laws of the Asssocation of Apartment Owners, and a copy of the approved plans) have not been recorded in the Bureau of Conveyances of the State of Hawaii, although a copy is on file with the Real Estate Commission as part of this registration.
3. The Developer of the project has submitted to the Real Estate Commission for examination all documents deemed necessary for the issuance of this Preliminary Public Report.
4. This Preliminary Public Report is made a part of the registration of the KONA SUNSET VILLAS condominium project. The Developer is responsible for placing this Preliminary Public Report (yellow paper stock) in the hands of all purchasers and prospective purchasers and securing a signed copy of the receipt for Horizontal Property Regime Preliminary Public Report from each person.
5. The purchaser or prospective purchaser is advised to acquaint himself with the provisions of Chapter 514A, Hawaii Revised Statutes, as amended, and the condominium rules and regulations which relate to Horizontal Property Regimes.
6. Advertising and promotional matter has been submitted pursuant to the rules and regulations promulgated by the Real Estate Commission.
7. This Preliminary Public Report automatically expires 13 months after the date of its issuance, October 2, 1979, unless a Supplementary or Final Public Report issues, or the Commission, upon review of registration, issues an order extending the effective period of this report.

NAME OF PROJECT: KONA SUNSET VILLAS

LOCATION: On approximately 37,950 square feet of land committed to the Horizontal Property Regime, situated along Seaview Circle, Holualoa, District of North Kona, Island, County, and State of Hawaii.

TAX MAP KEY: 7-7-15-68, 69 and 70

ZONING: M-1500

DEVELOPER: KSD Corp., a Hawaii corporation, whose principal place of business and mailing address is 76-6246 Alii Drive, Suite 230, Kailua-Kona, Hawaii 96740, telephone (808) 329-3331/3011. The officers are:

Michael J. MacFarland	President	76-6246 Alii Drive Suite 230 Kailua-Kona, Hawaii 96740
Walter S. Lentz	Vice President	76-6246 Alii Drive Suite 230 Kailua-Kona, Hawaii 96740
Lill W. Lentz	Secretary/Treasurer	76-6246 Alii Drive Suite 230 Kailua-Kona, Hawaii 96740

ATTORNEYS REPRESENTING DEVELOPER: The attorneys representing the Developer are Davis, Playdon & Gerson (Roy L. Anderson), Suite 1333, Pacific Trade Center, 190 South King Street, Honolulu, Hawaii 96813; telephone (808) 524-2466.

DESCRIPTION: The land will be improved according to the Developer's plans, as amended, and the proposed Declaration of Horizontal Property Regime, by constructing thereon one rectangular three-story apartment building consisting of twenty-one (21) exclusively residential apartments plus a partial basement area, recreational facilities, a storage room containing 21 separate storage lockers, a parking area containing 29 parking stalls, a swimming pool, and various associated improvements. The building will be constructed principally of wood and concrete block, with exterior and party walls between apartments constructed of concrete block, and with the roof constructed of wood trusses and sheathing and asphalt shingles. The building and the condominium apartments in the project are described in the proposed Declaration of Horizontal Property Regime as follows:

The three-story building has a total of twenty-one (21) residential apartments, each of which contains two bedrooms, two bathrooms, a living-room, dining area, kitchen, and lanai. In addition to the three stories, there is a partial basement level below the first floor.

There is a central walkway connecting the parking level with the center of the corridor on the second floor on the mauka side of the building. The corridor leads to two stairways, one located toward each end of the building, each providing access up to the third floor and down to the first floor and which serve to connect the parking level and each of the three residential floors of the building.

The partial basement area below the first floor includes the parking lot entrance ramp, the storage area, and the electrical, mechanical and maintenance rooms.

The first, second, and third floors are identical to each other; each floor has seven (7) apartments of which two (2) are type "A" apartments located at each end of the building, and five (5) are type "B" apartments.

Every apartment has immediate access to the covered walkways which are common areas on the mauka side of the building which lead to the two stairways, which lead to the parking area, the basement level, the swimming pool area, the grounds around the building, and to the parking lot driveway and ramp which leads to Seaview Circle.

The twenty-one (21) separate apartments in the project are described as follows: each of the twenty-one (21) separate apartments contains approximately 1,050 square feet of interior floor area which includes two bedrooms, two bathrooms, a living room, dining area, and kitchen, and, in addition, every apartment has a lanai of approximately 200 square feet on the makai side of the building.

a. Six (6) apartments are designated type "A" apartments, three (3) located on each end of the building (apartments 101, 107, 201, 207, 301, and 307) and, in addition to the above, have a window in the dining area, and an entrance lanai of approximately 100 square feet on the mauka side of the building, for a total floor area of approximately 1,350 square feet.

b. Fifteen (15) of the apartments are designated type "B" apartments (102, 103, 104, 105, 106, 202, 203, 204, 205, 206, 302, 303, 304, 305, and 306) and not being located on the end of the building, do not contain the window in the dining area or the entrance lanai, for a total floor area of approximately 1,250 square feet.

The Notice of Intention submitted by the Developer states that each of the apartments includes a refrigerator, stove/oven, dishwasher, garbage disposal, washer/dryer, water heater, carpeting, drapes, and drapery hardware.

The respective apartments are not to be deemed to include the undecorated or unfinished surfaces of the perimeter walls, or the interior load-bearing walls, or the unfinished surfaces of the floors and ceilings which surround the apartments or any pipes, shafts, wires, ducts, conduits, or other utility or service lines, facilities, and appurtenances running through such units which are utilized or which serve more than one condominium apartment, are deemed common elements. Subject to the foregoing, each apartment shall include the adjacent lanai and each apartment shall include all the walls and partitions which are not load-bearing within its perimeter walls, the inner decorated or finished surfaces of all the walls, floors, and ceilings.

COMMON ELEMENTS: An estate has been created consisting of all remaining portions of the project being described and referred to in the proposed Declaration as "Common Elements", which definition includes, but is not limited to, the following:

a. The land described in Exhibit "A" attached to the Declaration.

b. The foundation, floor slabs, columns, girders, beams supports, bearing walls, roofs, corridors, stairways, fire escapes, entrances and exits of the building.

c. The roof, the basement area, including, without limitation, the electrical, mechanical and maintenance rooms, and the storage areas.

d. The trash receptacle area, swimming pool, swimming pool deck, and associated equipment.

e. The driveways, sidewalks, loading areas, ramps, and the eight (8) parking stalls which are not reserved for the exclusive use of a particular apartment.

f. All central and appurtenant installations for all services such as power, light, gas, hot and cold water, and all like utilities, subject to such usage and maintenance agreement(s) pertaining to the sewage treatment plant and any easement pertaining thereto as the Grantor or Association of Apartment Owners may enter into with or grant to other property owners on the northern and southern boundaries of the Land.

g. All of the parts of the project existing for the common area use and which are necessary to the existence, maintenance, and safety of the project.

LIMITED COMMON ELEMENTS: Certain parts of the Project, herein called and designated as "Limited Common Elements", will be set aside and reserved for the exclusive use of certain apartment units as follows:

(a) One (1) parking space shall be appurtenant to and for the exclusive use of each apartment. The proposed Declaration provides that each numbered parking stall is reserved for the exclusive use of the apartment whose number corresponds with the number of the parking stall as shown on the plans, as a limited common element, appurtenant to that apartment.

(b) Each apartment shall have reserved for its exclusive use, as a limited common element appurtenant to that apartment, one (1) mailbox.

(c) Each apartment shall have reserved for its exclusive use as a limited common element appurtenant to that apartment one (1) storage locker in the storage room.

INTEREST TO BE CONVEYED TO PURCHASER: Each apartment has appurtenant an undivided common interest in the common elements. The type of apartment to which each apartment corresponds, the approximate interior and lanai area in square feet of each apartment and the percentage of undivided interest in the common elements appertaining to each apartment are as follows:

<u>Apt. Unit No.</u>	<u>Type</u>	<u>Interior Area Square Feet</u>	<u>Lanai Area Sq. Ft.</u>	<u>Total Area Sq. Ft. (Including Lanai)</u>	<u>Percentage of Undivided Interest</u>
101	A	1,050	300	1,350	5.02793
102	B	1,050	200	1,250	4.65549
103	B	1,050	200	1,250	4.65549
104	B	1,050	200	1,250	4.65549
105	B	1,050	200	1,250	4.65549
106	B	1,050	200	1,250	4.65549
107	A	1,050	300	1,350	5.02793
201	A	1,050	300	1,350	5.02793
202	B	1,050	200	1,250	4.65549
203	B	1,050	200	1,250	4.65549
204	B	1,050	200	1,250	4.65549
205	B	1,050	200	1,250	4.65549
206	B	1,050	200	1,250	4.65549
207	A	1,050	300	1,350	5.02793
301	A	1,050	300	1,350	5.02794
302	B	1,050	200	1,250	4.65550
303	B	1,050	200	1,250	4.65550
304	B	1,050	200	1,250	4.65550
305	B	1,050	200	1,250	4.65550
306	B	1,050	200	1,250	4.65550
307	A	1,050	300	1,350	<u>5.02794</u>

TOTAL 100.00000%

The above percentages of undivided interest in the common elements shall apply for all purposes, including the amount of maintenance of the common elements required to be paid by each apartment owner and the extent of the voting of each apartment owner as a member of the Association of Owners.

PURPOSE OF BUILDING AND RESTRICTIONS AS TO USE: The proposed Declaration of Horizontal Property Regime states the purposes for which the building and other improvements and each of the condominium apartments are intended and the uses to which they are restricted as follows:

(a) Each apartment is designated exclusively residential. The apartments shall be occupied and used as living accommodations for permanent or transitory use and may be leased or rented from time to time for transient occupancy by the respective owners thereof, their tenants, families, domestic servants, and social guests.

(b) All apartments shall be subject to and used only in accordance with the allowable uses according to the zoning ordinances of the County of Hawaii.

OWNERSHIP TO TITLE: A Preliminary Report dated August 14, 1979, and prepared by Title Guaranty of Hawaii, Inc., reports that title to the land is vested in Robert E. Price and Joyce S. Price.

ENCUMBRANCES AGAINST TITLE: The Preliminary Report dated August 14, 1979, and prepared by Title Guaranty of Hawaii, Inc., shows the following encumbrances:

1. For any taxes that may be due and owing, reference is made to the Office of the Tax Assessor, Third Division.

2. That certain Mortgage by and between Robert E. Price and Joyce S. Price, as Mortgagor, and Richard C. Stuver and Elda Stuver, as Mortgagee, dated August 17, 1978, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 13120, at Page 367.

The Developer advises that title is to be acquired by that certain Contract to Purchase dated March 25, 1979, between Michael J. MacFarland, as Buyer, and Robert E. Price and Joyce S. Price, as Seller, and by that certain undated and unrecorded Agreement of Sale between Robert E. Price and Joyce S. Price, as Seller, and the Developer, as Purchaser, and by that certain unrecorded Warranty Deed between Robert E. Price and Joyce S. Price, as Grantors, and the Developer as Grantee, copies of all of which have been filed with the Real Estate Commission as part of this registration.

PURCHASE MONEY HANDLING: An Escrow Agreement dated August 1, 1979, has been executed by the Developer and Title Guaranty Escrow Services, Inc. as the escrow, and a copy of

same has been filed with the Real Estate Commission. On examination, the specimen form of Sales Contract and the executed Escrow Agreement are consonant with the provisions of Chapter 514A, Hawaii Revised Statutes, as amended, particularly Sections 514A-39, 514A-63, 514A-64, and 514A-66.

Among other provisions, the specimen Sales Contract provides the following:

(1) That in the event development and construction of the project is delayed for any of various reasons, the non-occurrence of which was a basic assumption on which the agreement was made, the seller may require an increase in the sale price, terminate the agreement, and offer to the buyer a first right to execute a new agreement at the increased price; if the buyer does not accept such increase within fifteen (15) days of notice thereof, and upon refund of all deposits to the buyer, the parties are completely discharged from any further obligation under the contract.

(2) The Developer intends to undertake a construction loan for a portion of the costs of construction of the project and will mortgage the land and the seller's interest in the project to the construction lender. The purchaser should be aware that the seller's mortgage loan used for the construction of the project shall be and remain at all times a superior lien on the project, and purchasers intentionally waive and subordinate the priority of any claim under their sales contracts in favor of such mortgage loan. The purchasers are advised that paragraph 20 of the Sales Contract prohibits assignment of the Sales Contract without the written consent of the seller, and any assignment or attempted assignment shall constitute a material breach, giving the seller the right to terminate the contract and retain all sums theretofore paid.

(3) The Developer contemplates and reserves the right, without further notice to the Buyer, and the Buyer agrees to be fully bound by, entry into one or more joint or common maintenance or usage agreements with, or grants of perpetual easements to, adjacent property owners in, over, and to such common elements as may be appropriate for use of, ingress to, egress from, and access to the sewage treatment plant for the project, and without further notice to the Buyer, Buyer agrees to be fully bound to such encumbrances on the common elements as the Developer, in the Developer's sole discretion, finds appropriate therefor.

CONVEYANCE DOCUMENTS: The specimen Apartment Ground Lease and Option to Purchase provides the following:

At the end of the first thirty (30) years of the term of the Apartment Ground Lease and Option to Purchase, if the Lessee is not in default under any of the terms contained within the Apartment Ground Lease and

has timely complied with all obligations on the part of the Lessee to be performed, the Lessee shall have an option to purchase the Lessor's residual interest in the premises described in the Apartment Ground Lease and Option to Purchase, subject to all provisions of the Declaration, By-Laws, House Rules, and any other encumbrance, by payment to the fee owner of the land the sum of \$1,000.00 and by delivering written notice of the Lessee's intent to exercise said option.

It is incumbent upon the purchaser and prospective purchaser that he read with care the Sales Contract and the executed Escrow Agreement. The latter Agreement establishes how the proceeds from the sale of condominium units are placed in trust, as well as the retention and disbursement of those funds.

MANAGEMENT OF THE PROJECT: The By-Laws of the Association of Apartment Owners vest in the Board of Directors the powers and duties necessary for the administration of the affairs of the Association of Apartment Owners of the Project. The Board of Directors of the Association of Apartment Owners may employ necessary personnel to carry out management and operation functions of the Project. The Declaration of Horizontal Property Regime submitted to the Real Estate Commission permits the Developer to appoint the initial managing agent.

HOUSE RULES: The proposed House Rules provide that household pets of any kind are prohibited and no owners, occupants, tenants, guests, or visitors are permitted to retain pets in the premises.

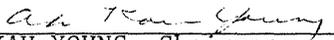
STATUS OF PROJECT: The Notice of Intention indicates that the Developer has not yet entered into a General Construction Contract to undertake construction of the project. However, the Developer advises that construction of the project is expected to commence on or about October 1, of 1979. The Developer estimates that construction of the project will be substantially completed on or about May 30, of 1980.

FINANCING: The Developer advises that the cost of the project will be paid from (1) funds available through a construction loan, and (2) authorized disbursements by the escrow agent pursuant to Section 514A-67, Hawaii Revised Statutes, as amended.

The purchaser or prospective purchaser should be cognizant of the fact that this published report represents information disclosed by the Developer in the required Notice of Intention submitted on August 3, 1979, and information filed as of August 31, 1979.

This PRELIMINARY HORIZONTAL PROPERTY REGIMES (CONDOMINIUM) PUBLIC REPORT is made a part of REGISTRATION NO. 1159 filed with the Real Estate Commission on August 3, 1979.

This report, when reproduced, shall be a true copy of the Real Estate Commission's public report. The paper stock used in making facsimilies must be yellow.


AH KAU YOUNG, Chairman
Real Estate Commission
State of Hawaii

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Registration No. 1159

October 2, 1979